

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSCIVIL ACTION NO.
04-30066-MAP

SUSAN O'CONNELL,)
Plaintiff,)
)
v.)
)
METROPOLITAN LIFE INSURANCE)
COMPANY,)
Defendant.)
)

ASSENTED-TO MOTION TO EXTEND THE BRIEFING SCHEDULE FOR THE PURPOSE OF NEGOTIATING A REMAND OF THE CASE

Pursuant to Fed. R. Civ. P. 6(b), defendant Metropolitan Life Insurance Company (“MetLife”) hereby moves, with the assent of plaintiff Susan O’Connell (“O’Connell”), to extend the briefing schedule by a period of one week so that the parties may continue to negotiate an agreement to remand this matter to MetLife. As such, MetLife requests that its cross-motion for summary judgment and response to plaintiff’s motion for summary judgment be due on May 9, 2005 and that plaintiff’s reply brief be due on May 23, 2005. As grounds therefore, MetLife states as follows.

1. This claim is brought under the Monarch Life Insurance Company LTD Plan (“Plan”) and is governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001 *et seq.*

2. O’Connell has filed suit alleging that MetLife’s termination of her benefits was arbitrary and capricious, in part because she was not provided with a sufficient opportunity to participate in a functional capacity examination (“FCE”).

3. Pursuant to the Court's scheduling order, O'Connell's motion for summary judgment was due on April 1, 2005, MetLife's response and cross-motion for summary judgment is due on May 2, 2005, and O'Connell's response to MetLife's cross-motion for summary judgment is due on May 16, 2005.

4. The parties have entered into discussions regarding an agreement to remand this case to MetLife for the purpose of scheduling a FCE. An agreement is expected to be reached shortly.

5. O'Connell has assented to this motion.

WHEREFORE, MetLife requests that the briefing schedule be extended by a period of one week so that the parties may finalize the terms of an agreement to remand the case.

ASSENTED-TO BY:

SUSAN O'CONNELL
By her attorney,

METROPOLITAN LIFE INSURANCE
COMPANY
By its attorneys,

/s/ William G. Cullinan

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